

RECEIVED
OFFICE OF THE BUDGET
2006 JUN 1 PM 3 03

**RESPONSES TO PLUS COMMENTS
(PLUS 2005-08-10; Millwood Expansion)**

PREPARED FOR

MITCHELL AVENUE ASSOCIATES

FOR PROPERTY KNOWN AS

EXPANSION TO MILLWOOD

PREPARED BY

MERESTONE CONSULTANTS, INC.

Expansion to Millwood **(Formerly Parcel "B" NCR Corporation)**

Enclosed for your review and consideration, please find one (1) copy of the revised Preliminary Site Plan for the Expansion to Millwood. We are in receipt of PLUS comment review letter from The Delaware Office of State Planning Coordination, dated September 12th 2005, in reference to the above-mentioned project and a PLUS Follow-up review and letter dated September 22nd 2005.

As mentioned in the follow-up letter the State initially objected to the rezoning of the industrial land to residential but after meeting with representatives from the Town, Office of State Planning Coordination and the Delaware Economic Development Office the State has agreed not to oppose the rezoning of the industrial land on the west side of the railroad tracks as long as the land on the west side remained industrial and accessible.

The Town of Millsboro has since amended their comprehensive plan to reflect this agreed upon change and the developer has submitted a Preliminary Site Plan to the Town in accordance with this agreement for their consideration and approval.

We have responded to all agency comments in this letter, however where comments were repeated by multiple agencies, they are only addressed one time. For your convenience we have referenced the location of our response to the comments.

State Strategies/Project location

- The site lies within an Investment Level 1 area according to the Strategies for State Policies and Spending, and within the Town of Millsboro. State policies generally support development activities in municipal areas that are consistent with the character of the area and the Town's Comprehensive Development Plan.
- In a PLUS follow-up review (dated September 22nd 2005), the State has agreed not to oppose the rezoning of the industrial land on the west side of the railroad tracks as long as the land on the east side of the tracks remains industrial and accessible. The developer has since subdivided and created two (2) distinct parcels from the original tract of land maintaining the existing industrial zoning on the lands east of the railroad. The current proposal has been amended to include just the lands west of the railroad for the proposed expansion to Millwood. The Town has since amended their Comprehensive Plan to include these revisions (PLUS 2005-10-11) allowing this proposal to progress through the Town's site plan process.

Street Design and Transportation

- The applicant strongly opposes the Delaware Department of Transportation's position to "recommends a TIS be required". For the benefits mentioned below, this is an "expansion" of the existing Millwood subdivision, subject to DelDot's review and further this parcel was the subject of a rezoning request in 2005 by the Fort-Maier Homes. It is clearly stated, in Mr. Brockenbrough's comments that **"this proposed expansion is outside DelDot's jurisdiction" and his comments are "only advisory"**. When Millwood was proposed for annexation and rezoning from AR-1 (Sussex County) to an RPC (Town of Millsboro) the then applicant (Mears) was asked by DelDot to perform a TIS. Through negotiations with DelDot, specifically Bill Brockenbrough, the applicant "mitigated" that request by agreeing to extend highway road improvements to Mitchell Road. Those improvements, approved and confirmed by DelDot, are in fact in place, subject to final black top and stripping.

Natural and Cultural Resources

- Since the PLUS review the plan has been revised to minimize development/impacts within the floodplain. The Town however does allow for development within the floodplain in accordance with the provisions of Chapter 109: FLOODPLAIN MANAGEMENT; "In the floodplain area, any development and/or use of land may be permitted, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations."

Natural and Cultural Resources (continued)

- Since the PLUS review 404 Federal Wetland areas have been delineated and are shown on the revised plan. The Town currently does not have any ordinances requiring a buffer from these wetlands however no wetland disturbance is proposed and buffers of not less than twenty (20) feet have been provided.
- A substantial natural riparian buffer zone exceeding three-hundred (300) feet has been left undisturbed adjacent to Wharton's Branch.
- The developer recognizes that this area is mapped as a potentially excellent groundwater recharge area however; currently the Town has not adopted any ordinances which would require protection or mitigation of these areas. Recognizing the importance of the State's Water Resource Protection Areas (WRPA's), the developer will provide recharge facilities that directly infiltrate rooftop runoff.

Office of State Planning Coordination

- Previously addressed under **State Strategies/Project location.**

Division of Historic and Cultural Affairs

- The developer recognizes the importance of preserving our historic and natural heritage and has therefore proposed to preserve the existing grave site by providing access and a vegetative buffer from existing residences. All activities and provisions will be in accordance with the Delaware State Code: Title 7 Chapter 54; "Delaware Unmarked Human Remains Act".

Department of Transportation:

- 1) The developer acknowledges that Del DOT's jurisdiction over Mitchell Street only extends as far north as Industrial Street and therefore the proposed expansion is outside of Del DOT's jurisdiction and all comments are only advisory. Furthermore, the revised site plan consists of sixteen (16) fewer units than the plan that was submitted for the PLUS review. Utilizing Del DOT's methodology for determining the need for a traffic impact study (TIS) a single-family residential community of approximately 215 units would be required to exceed ADT warrants which would normally garner a TIS requirement.
- 2) The property east of the railroad tracks has been subdivided, recorded and removed from this application.
- 3) The applicant strongly opposes the Delaware Department of Transportation's position to "recommends a TIS be required". For the benefits mentioned below, this is an "expansion" of the existing Millwood subdivision, subject to DelDot's review and further this parcel was the subject of a rezoning request in 2005 by the Fort-Maier Homes. It is clearly stated, in Mr. Brockenbrough's comments that **"this proposed expansion is outside DelDot's jurisdiction" and his comments are "only advisory"**. When Millwood was proposed for annexation and rezoning from AR-1 (Sussex County) to an RPC (Town of Millsboro) the then applicant (Mears) was asked by DelDot to perform a TIS. Through negotiations with DelDot, specifically Bill Brockenbrough, the applicant "mitigated" that request by agreeing to extend highway road improvements to Mitchell Road. Those improvements, approved and confirmed by DelDot, are in fact in place, subject to final black top and stripping.
 - a) This applicant (Robino-Millwood LLC) has been working diligently with this Department to further "enhance" these approved improvements by adding additional drainage relief, some 1500 L.F. of a closed storm sewer system, to yet further satisfy the request of DelDot, at the expense of this applicant (yet to be agreed upon) furthering our cooperation in working with this Department, to bring closure to this matter.

Department of Transportation (continued)

- b) Additionally, this applicant is committed to working with the Town of Millsboro on an approved entrance to serve the Millwood II community, fronting on the "Town's" section of Mitchell Road. By the addition of a connection to Millwood, through the existing plotted single family lots, this new design for Millwood allows three connections to Mitchell Road, creating a more desirable layout and street pattern throughout both proposed and existing Millwood neighborhoods.
 - c) DelDot's history of Millwood, the towns requested rezoning of Millwood II (Fort-Maier Homes) and our current application provides sufficient documentation and cause "not" to have the town accept DelDot's "advisory" comment to further request a TIS.
 - d) In closing, this applicant has been more than "fair" in dealing with the State's various agencies for the communities of Millwood. We therefore request that a TIS not be a requirement for the preliminary plan of the expansion of Millwood approval.
- 4) Each proposed unit within the expansion to Millwood will have a two car attached garage and a 10 foot by 20 foot driveway pad that will accommodate two additional parking spaces per unit. It is anticipated that Industrial Street which will be improved to minimum Town standards will be utilized as the primary access for the new section. The developer will provide traffic calming measures in accordance with the Delaware State Department of Transportation Traffic Calming Design Manual.
 - 5) The revised preliminary plan incorporates a six (6) foot high landscape berm and fence adjacent to the railroad tracks. Millwood Boulevard has been re-aligned to incorporate a series of reverse/compound curves, meeting the horizontal alignment requirements of the Town, to provide a means of discouraging speeding.

The Department of Natural Resources and Environmental Control

Soils

- Suitable erosion and sediment control practices and site re-vegetation measures will be implemented in accordance with the requirements of the Delaware Erosion and Sediment Control Handbook to minimize exposures to potentially erosive soils.

Wetlands

- A formal Wetland delineation and report has been prepared by JCMECI and has been submitted to the Army Corps of Engineers for a Jurisdictional Determination (JD).
- The Town currently does not have any ordinances requiring a buffer from these wetlands however no wetland disturbance is proposed and buffers of not less than twenty (20) feet have been provided. This project is being developed as single-family condominiums and therefore all wetland areas will be left in common open space.
- As previously mentioned no impacts to federally regulated wetlands or State regulated sub-aqueous lands are anticipated however if through the development process these impacts can not be avoided, the appropriate approvals and permits will be obtained.

ERES Waters

- This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMP's). Stormwater runoff shall be managed on-site with a series of stormwater management basins. The use of Green Technology BMP's will be incorporated into the overall stormwater management strategy further reducing pollutants and hydrocarbons prior to reaching receiving waters and wetlands.

The Department of Natural Resources and Environmental Control (continued)

Until such time that a Pollution Control Strategy (PCS) is adopted, it is our understanding that compliance with TMDL's is voluntary. We will work to minimize TMDL's but are not mandated to create a Nutrient Budget Analysis.

Impervious Cover

- The use of Green Technology BMP's will be incorporated into the overall stormwater management strategy further reducing pollutants. The existing vegetated riparian zone adjacent to Wharton's Branch will substantially be left undisturbed, the developer will provide recharge facilities that directly infiltrate rooftop runoff and an aggressive landscape plan is being proposed to help mitigate the negative impacts of the additional impervious cover.

TMDL's

- The developer recognizes that this site is located in the Inland Bays Watershed that eventually will require a high reduction in nitrogen and phosphorus. **The federal government has charged the States with developing and implementing standards to support these desired goals.**

Until such time that a Pollution Control Strategy (PCS) is adopted, it is our understanding that compliance with TMDL's is voluntary. We will work to minimize TMDL's but are not mandated to create a Nutrient Budget Analysis.

Water Resource Protection Areas

- The developer recognizes that this area is mapped as a potentially excellent groundwater recharge area however; currently the Town has not adopted any ordinances which would require protection or mitigation of these areas. Recognizing the importance of the State's Water Resource Protection Areas (WRPA's), In accordance with the State's recommendation the developer will provide recharge facilities that directly infiltrate rooftop runoff from houses which will allow for impervious cover to exceed 20% but no more than 50% within WRPA's.

Water Supply

- This site is located within the public water service area granted to the Town of Millsboro (94-CPCN-10). It is anticipated that inter-connection of water facilities with the existing Millwood development and possible system upgrades will be required.
- It is anticipated that dewatering points will not be required during any phase of construction, however if they become necessary, dewatering well construction permits will be obtained from the DNREC, Water Supply Section prior to construction of the well points.

Sediment and Erosion Control/Stormwater Management

- The developer acknowledges that prior to any land disturbing activities, a detailed Erosion and Sediment Control/Stormwater Management Plan will be required to be reviewed and approved by the Sussex Conservation District.

Drainage

- The plan proposes a more than three-hundred (300) foot buffer from Wharton's Branch from any proposed construction or development activities with the intention of not requiring any wetlands permits. If through the course of construction, impacts to Wharton's Branch occur which would require maintenance be performed, the developer will procure all necessary permits and/or approvals.
- The project will be developed in accordance with current DNREC stormwater regulations requiring that peak discharge runoff be maintained at pre-development levels in the post condition and that stormwater quality runoff be achieved through the use of extended detention or best management practices.

The Department of Natural Resources and Environmental Control (continued)

- Any stormwater drainage or management practices created through the development of this project will be either maintained in private open space maintained by the Condominium Association or, if part of the Town's drainage system, easements of sufficient width will be dedicated to the Town for their maintenance.

Floodplains

- Previously addressed under **Natural and Cultural Resources.**

Water Bodies

- Previously addressed under **Natural and Cultural Resources.**

Forest

- A substantial natural riparian buffer zone exceeding three-hundred (300) feet has been left undisturbed adjacent to Wharton's Branch. Approximately two (2) acres of existing vegetation and woodlands is required to be removed seventy-five percent (75%) of which is reserved for the stormwater management requirements for the development.
- The location of the stormwater management facility was chosen based upon its relative elevation to the remainder of the parcel (approximately 6-9 feet lower in elevation). Its location will enable stormwater runoff from the development to be treated without utilizing a secondary treatment facility or the inclusion of a pump.
- Approximately seventy percent (70%) of the existing forested area will be left undisturbed and will be placed within a permanent conservation easement. This area will be clearly defined in the field by a nature trail which will outline the perimeter. As a means of mitigating these minor impacts, an aggressive landscape plan will be implemented consisting of deciduous and coniferous trees and shrubs.

Open Space

- Previously addressed under **Forest (see above).**

Rare Species

- The developer recognizes the importance of protections for rare, threatened or endangered species and in an attempt to preserve natural habitat will maintain a minimum three-hundred (300) foot riparian buffer zone adjacent to Wharton's Branch to be placed in a protective permanent conservation easement.

Nuisance Waterfowl

- It is anticipated that all stormwater management ponds will be designed as wet ponds for aesthetic and amenity purposes. The main stormwater pond is situated such that the north, east and south exposures are adjacent to an existing woodland area. The developer will provide landscaping in the form recommended by DNREC along the western exposure to deter Canada Geese and Mute Swans will not find these ponds as desirable habitat.

Recreation

- The developer will be providing sidewalks on at least one side of every street. A sidewalk inter-connection with the existing Millwood development is proposed. The plan has been modified to incorporate a nature trail along the riparian corridor of Wharton's Branch. The developer will expand the community facilities located in the existing Millwood community to accommodate the proposed expansion.

Underground Storage Tanks

- The developer acknowledges that should any underground storage tank or petroleum contaminated soil be discovered during construction, DNREC's Tank Management Branch will be contacted immediately.

Solid Waste

- The builder, Frank Robino Companies, has been building in this State and all over the United States for over a half-century and is well aware of the solid waste (construction waste) issues associated with developing a community. The builder understands that limiting construction waste reduces the burden on our land fills which translates into a substantial cost savings in land fill fees and waste removal.

The Department of Natural Resources and Environmental Control (continued)

Site Investigation and Restoration Branch

- The developer acknowledges that the existing NCR Corporation site located to the north was the only SIRB site found within a ½ mile radius of the project and that considering the extent of past remediation no negative impact on the proposed Millwood expansion is anticipated.

Air Quality

- In an effort to mitigate the stated impacts of new construction and related vehicle emissions the developer will construct ENERGY STAR qualified homes for this development. Sidewalks, a nature trail and inter-connection with the existing Millwood development have been proposed to further help reduce vehicle emissions.

State Fire Marshal's Office

a) Fire Protection Water Requirements:

- The water will be provided to the site through a central water system by the Town of Millsboro. It is anticipated that inter-connection through the existing Millwood development will be required by the Town. Fire hydrants will be provided at a maximum spacing of 1000 feet capable of delivering the minimum required fire flow for single family dwellings.
- All required fire protection infra-structure will be provided in accordance with the Town of Millsboro standards & specifications and the Delaware State Fire Prevention Regulations (DSFPR).

b) Accessibility:

- All single family residences will be accessible from a public street right-of-way. Industrial Street will be reconstructed (improved) to minimum Town standards.
- All dwellings will be accessible within 100 feet to fire department apparatus.
- There is no proposed dead end street exceeding 300 feet. One (1) cul-de-sac is proposed with minimum paving radii in excess of the 38 feet required by the DSFPR.
- The only proposed method for speed reduction is a compound curve on Millwood Boulevard which has been designed in accordance with the Town's minimum horizontal alignment standards.
- Currently, there are no gates or controlled access designs proposed or anticipated for this development.

c) Gas Piping and System Information:

- At this time it is anticipated that the development will be serviced with a centralized propane gas system with the underground tank farm being located on the existing Millwood development.

d) Required Notes:

- All required notes are either on the Preliminary Site Plan or will be added to the Final Site Plan prior to Town approval and recordation.

Department of Agriculture

Right Tree for the Right Place

The developer has submitted an aggressive landscape design with the preliminary site plan application consisting of a mixture of deciduous and evergreen trees and shrubs. The landscape plan incorporates buffering from neighboring sites and uses, street trees and landscaping of open space and stormwater features.

Native Landscapes

It is the intention of the developers to utilize native trees and shrubs in concert with a 6-foot high berm and fence to provide a safety and visual barrier from the railroad to the north. Also, a landscape buffer shall be created between this development and Industrial Street.

Department of Agriculture (continued)

Tree Mitigation

Approximately seventy-five percent of the existing forested area will be left undisturbed and will be placed within a permanent conservation easement. A substantial natural riparian buffer zone exceeding three-hundred (300) feet has been left undisturbed adjacent to Wharton's Branch. Approximately two (2) acres of existing vegetation and woodlands is required to be removed seventy-five percent (75%) of which is reserved for the stormwater management requirements for the development. It is anticipated that the proposed landscape plan will provide for more than a 1:1 mitigation ratio to offset impacts from tree removal.

Delaware State Housing Authority:

- Millwood II is an expansion to the existing community of Millwood. Millwood has a mixed product line of condominiums, townhomes and singles. To date, this development "has" provided DHP assistance to several buyers, now living in Millwood. Additionally, other DSHA programs have been utilized by future residents of Millwood. Our current line of townhomes (168) is priced to utilize DSHA current programs, in a range of prices from \$180,000 to \$220,000.00. Recent changes in the sale price limits in Sussex County will further allow residents of Millwood to take advantage of DSHA programs. Millwood II, based on today's dollars as to sale prices, should fall within the current sale price ranges for Sussex County.

Department of Education:

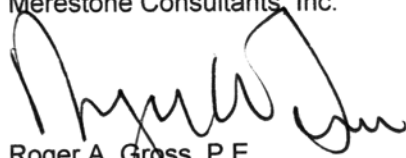
- Since the original PLUS review, the plan has been revised and proposes 121 dwelling units, sixteen (16) fewer units. The developer will submit an information package to the Indian River School District as requested.
- All streets within the proposed expansion to Millwood will be served by public streets, to be dedicated to the Town. All streets will meet minimum Town standards and either inter-connect with the street network within the existing Millwood thus providing for a loop network to Mitchell Street or provide cul-de-sacs of a sufficient radius to allow for school buses to turn around without backing up.

Delaware Economic Development Office:

- Subsequent to the issuance of this comment a meeting and follow-up review regarding the zoning issue and the need for industrial property was held with representatives from the Town, Office of State Planning Coordination and the Delaware Economic Development Office. It was decided and agreed upon that the proposal would be amended to leave that portion of the site located to the east of the railroad tracks as Industrial (I) zoning and to rezone the western portion as Medium Residential – Residential Planned Community (MR-RPC) to allow for the expansion of the existing Millwood development.

Thank you for the opportunity to respond to the State agency planners comments. If you should have any additional comments or require additional information, please do not hesitate to contact me.

Very truly yours,
Merestone Consultants, Inc.



Roger A. Gross, P.E.
w/encls.

Cc: Town of Millsboro, Paul Robino

R:\Projects\20860R\correspondence\Plus Comment Response.DOC